

**REMARKS****I. General**

Claims 1-37 are pending in the present application. The present Office Action (mailed April 6, 2007) indicates that claims 1-6 and 18-37 are allowed. The Office Action rejects claims 7-17 under 35 U.S.C. §112, second paragraph as being indefinite, but indicates that those claims would likewise be allowable if amended to overcome the §112, second paragraph rejection.

Applicant respectfully traverses the outstanding claim rejections raised in the current Office Action, and requests reconsideration and withdrawal thereof in light of the amendments and remarks presented herein.

**II. Telephone Interview**

On June 19, 2007 a telephone discussion was held between the Examiner, (Krisna Lim) and Applicant's representative, Jody C. Bishop (Reg. No. 44,034). In the interview, the rejections under 35 U.S.C. §112, second paragraph were discussed.

Applicant noted that support for the rejection is not found in the cited portion of the M.P.E.P. That is, the Examiner contended that the term "operable" renders the claims indefinite, citing to M.P.E.P. §2173.05(d). However, M.P.E.P. §2173.05(d) does not provide that the term operable renders a claim indefinite, but instead provides that reciting examples or preferences in a claim may lead to confusion. The use of the term "operable" does not recite an example or a preference, but instead specifies what the corresponding element (e.g., server, controller, etc.) is operable to perform.

The Examiner indicated concern that the term "operable" may raise a question regarding whether the corresponding element operates to perform the recited function. That is, the Examiner suggested that the term "operable to" may be interpreted as "may", and thus leave question regarding whether the corresponding element presently provides the operability. The Examiner suggested the term "configured to" as being preferred over the term "operable".

While Applicant's attorney did not agree with the Examiner's suggestion that the term "operable" raises questions that lead to indefiniteness of the claims, Applicant's attorney suggested (for purposes of expediting prosecution of the present application) replacing "operable" with "operative", as the inclusion of "able" in the form of the base word "operate" appeared to be the genesis of the Examiner's dislike for the term "operable". Applicant suggested that "operative to" conveys essentially the same meaning as "operable to", but may resolve the Examiner's concern that the inclusion of "able" in the word might lead to interpreting the phrase as "may". The Examiner agreed with the suggested change from "operable" to "operative" to overcome the outstanding 35 U.S.C. §112, second paragraph rejections.

Applicant's attorney thanks the Examiner for his time and consideration in discussing and resolving this issue. As discussed below, the claims are amended herein in the manner discussed in the telephone conference. As agreed in the telephone conference, these amendments overcome the 35 U.S.C. §112, second paragraph rejections of record, and because no further rejections exist Applicant respectfully submits that the claims are in condition for allowance.

### **III. Amendments**

Claims 7-9, 11, and 13-17 are amended herein. No new matter is added by these amendments. In each of claims 7-9, 11, and 13-17, the term "operable" is replaced with "operative". This is not intended to narrow the scope of these claims in any way, but is instead intended to clarify that the corresponding element possesses the ability to perform the recited functionality. The term "operative" is believed to be sufficiently definite under 35 U.S.C. §112, second paragraph, *see e.g., Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed Cir. 2004) (addressing the term "operatively connected", as discussed in M.P.E.P. 2173.05(g)). Accordingly, Applicant respectfully requests that the outstanding rejections be withdrawn and all claims passed to allowance.

#### **IV. Conclusion**

In view of the above, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-2025, under Order No. 200311045-1 from which the undersigned is authorized to draw.

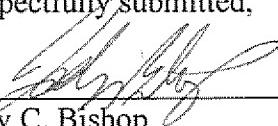
Dated: June 28, 2007

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: June 28, 2007

Signature: Donna Forbit  
(Donna Forbit)

Respectfully submitted,

By 

Jody C. Bishop

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